

ACTIONS AND THE RIGHTS OF ITS STOCKHOLDERS.

(C) SUCCESSOR NATIONAL BANKING ASSOCIATION.

IF THE SUCCESSOR WILL BE A NATIONAL BANKING ASSOCIATION:

(1) FEDERAL LAW GOVERNS:

(I) THE ACTIONS OF A CONSTITUENT COMMERCIAL BANK;

(II) THE RIGHTS OF ITS STOCKHOLDERS; AND

(III) THE EFFECT OF THE CONSOLIDATION, MERGER, OR TRANSFER OF ASSETS ON ITS RIGHTS, FRANCHISES, INTERESTS, AND FIDUCIARY DUTIES; AND

(2) THE OTHER PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO THE CONSOLIDATION, MERGER, OR TRANSFER OF ASSETS.

REVISOR'S NOTE: This section is new language derived from Art. 11, §§ 109(5) and 110.

For clarity, subsection (a) of this section is revised to conform with the similar enumeration of powers in CA § 3-102, as to corporations generally; as to the added reference to a transfer of assets, see below.

In subsection (b) of this section, the present reference to the required approval of the Bank Commissioner is deleted as unnecessary in light of § 3-705 of this subtitle to the same effect.

In subsection (c) of this section, the present statement that "consent is hereby expressly given to" the merger or consolidation of a commercial bank with a national banking association also is deleted as unnecessary. Given the definition of "bank" in § 3-701 of this subtitle to include a national banking association, the provisions of subsection (a) of this section would have the same effect as the present express "consent".

Unlike CA Title 3, the present "merger" provisions of Art. 11 do not speak to the possible transfer of the assets of one bank to another. Generally speaking, the procedures for a merger or consolidation, on the one hand, and a "transfer of assets", on the other -- including the rights of objecting stockholders -- should be the same. Consequently, the provisions of this subtitle have been revised to apply to each of these transactions.

Note that, under § 1-201 of this article and CA §
